

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RAYMOND J. BERGERON DAVILA,

Plaintiff,

v.

Case No. 22-C-298

RANDALL HEPP, et al.,

Defendants.

ORDER

Plaintiff Raymond J. Bergeron Davila, who is currently serving a state prison sentence at Waupun Correctional Institution and representing himself, filed a complaint under 42 U.S.C. § 1983, alleging that his civil rights were violated. On June 15, 2022, the Court screened and dismissed the amended complaint for failure to state a claim. Dkt. No. 17 at 7. The Court gave Plaintiff an opportunity to file a second amended complaint that complied with the instructions in the screening order. *Id.* The Court warned Plaintiff that, if he did not file a second amended complaint by July 13, 2022, the Court would dismiss the case. *Id.* The deadline to file passed, and Plaintiff neither filed a second amended complaint nor otherwise communicated with the Court, so the Court dismissed this case on July 27, 2022. Dkt. Nos. 18-19.

On August 5, 2022, Plaintiff filed a “motion to reopen case, motion for extension of time.” Dkt. No. 20. He explains that he was on suicide watch between July 5, 2022 and July 25, 2022, so he did not have access to his property until August 2, 2022. *Id.* at 1-2. That same day, on August 2, 2022, Plaintiff was placed back on suicide watch and he is still on observation status now. *Id.* at 2. He explains that even the lead pencil he used to write this motion is contraband, so

he has to dispose of it right after using it so he doesn't get in trouble with prison staff. *Id.* He asks the Court to reopen the case and give him 30 additional days to file his second amended complaint. *Id.* He also asks for an additional copy of the original complaint so he can figure out how to amend it. *Id.*

Given the circumstances, the Court will grant Plaintiff's motion for an extension of time and will give him 30 more days to file a second amended complaint. The Court will hold off on resolving the motion to reopen until it receives the second amended complaint. If the second amended complaint states a claim, the Court will grant the motion to reopen. Otherwise, the Court will deny the motion.

Plaintiff is advised that he likely will not receive any further extensions of time. The complaint was screened on June 15, 2022 and Plaintiff was not placed on suicide watch until three weeks later on July 5, 2022. This means Plaintiff's own procrastination caused him to miss his original deadline. To the extent Plaintiff is currently on a sharps restriction, the Court will accept a filing drafted in rubber pencil or crayon. In other words, Plaintiff should not intentionally violate prison rules. And the Court will direct the Clerk's office to provide Plaintiff with a copy of his original complaint, as requested.

IT IS THEREFORE ORDERED that Plaintiff's motion to reopen case, motion for extension of time (Dkt. No. 20) is **GRANTED in part**. The motion for extension of time is granted. Plaintiff may file his second amended complaint within 30 days of this order. The Clerk's office is directed to provide Plaintiff a copy of his original complaint.

Dated at Green Bay, Wisconsin this 15th day of August, 2022.

s/ William C. Griesbach
William C. Griesbach
United States District Judge